

Remarks:

In the Office Action mailed on September 16, 2010, the Examiner indicated that Claims 1, 3 – 7, 10 – 13, 16 – 31, 34, 39 – 48, and 50 – 55 are allowed and rejected Claims 54 and 55. Claims 2, 8, 9, 14, 15, 32, 33, 35, 36, 37, 38 and 49 were previously cancelled. Claim 54 is amended herein. Claims 1, 3 – 7, 10 – 13, 16 – 31, 34, 39 – 48, and 50 – 55 are pending in the application.

Interview Summary

An Examiner Interview was held via telephone on October 28, 2010. In the interview, the undersigned, on behalf of the applicants, expressed surprise and befuddlement over the rejection of Claim 54 as Claim 54 is a near direct fusion of Claims 1 and 16 as they stood at the time of the Office Action of 3/30/2010 in which the Examiner had indicated that Claim 16 (which depended directly from Claim 1 at that time) would be allowable if rewritten in independent form. The parties to the interview discussed the possibility of amending Claim 54 to specify that the recitation of “the voice sensor” would be limited by the modifier “biometric.”

The Examiner’s Response to Arguments

The Examiner indicates the view that “the microphone of Nita is integrated in the card.” Office Action, Page 2, Line 15. Applicants wish to point out that the integration of the microphone in the card is not material to the present application because the claims do not recite integration of the microphone into the *card* but the integration of the voice sensor into *the integrated circuit*.

Claims

Allowable Subject Matter

The applicants thank the Examiner for indicating that Claims 1, 3 – 7, 10 – 13, 16 – 31, 34, 39 – 48, and 50 – 53 are allowed.

35 USC 103

Claims 54 and 55 were rejected under 35 USC 103 as unpatentable over the combination of Nitta (U.S. Pat. No. 4,851,654) in view of Gainsboro (U.S. Publ. No. 2002/0071537). Applicants have amended the independent Claim 54. To the extent the Examiner believes the rejection applies to the claims as amended, applicants traverse the rejection.

In the Office Action of 3/30/2010, the Examiner indicated that Claim 16 would be allowable if rewritten in independent form. In creating Claim 54 Applicants adopted a near exact wording of the combination of Claims 1 and 16 (Claim 16 depended from Claim 1) as these claims existed at the time of the Office Action of 3/30/2010. The following paragraph illustrates this fact, in which the bold text was the exact wording from Claim 1 as of the response that preceded the Office Action of 3/30/2010 and the italicized text represents text from Claim 16, as Claim 16 existed at the time of the 3/30/2010 response:

“A portable device, comprising:²

an integrated circuit having a biometric voice sensor integrated into a portion of the integrated circuit, the biometric voice sensor comprising a pressure sensor *including³* a membrane that responds to a voice pressure wave **and** wherein the

² The preamble was changed in creating Claim 54 from “An integrated circuit card” (Claims 1 and 16) to “A portable device.”

³ Claim 16 used the phrasing “wherein the pressure sensor includes”

voice sensor is configured to detect the speech of a user and to produce a signal responsive to the speech of the user; and

a voice processing circuit integrated into a portion of the integrated circuit, wherein the voice processing circuit is configured to receive the signal from the biometric voice sensor and to process the signal to extract the voice characteristics representative of the user.”

Thus, it can be seen that Claim 54 is a near exact rewrite of Claim 16 into independent form adopting the limitations of the independent claim from which it depended at the time the relevant office action (3/30/2010) issued. It was therefore very surprising to the Applicants that the Examiner did not allow Claim 54 as the claim on which it was based had been indicated as allowable.

In the interview of October 28, 2010, the undersigned and the Examiner discussed Claim 54 and the undersigned expressed the Applicants' bewilderment over the rejection of Claim 54 when the Examiner had indicated that Claim 16 would be allowable if rewritten in independent form and Claim 54 was a near exact rewrite of Claim 16 into independent form (as illustrated above). That said, Applicants have amended Claim 54 as discussed in the interview to include the limitation of “biometric” on “the voice sensor” to further clarify the scope of the invention.

Claim 54 recites “an integrated circuit having a biometric voice sensor integrated into a portion of the integrated circuit.” Nitta fails to teach or suggest that element. The Examiner argues that “a biometric voice sensor is inherent in Nitta, because Nitta discloses a microphone (ref # 9 fig. 1A sheet 1).” Office Action, Page 4, Lines 1 – 3. Whether that is a true statement or

not, the fact remains that Nitta fails to disclose the *integration* of a biometric voice sensor into a portion of the integrated circuit. Rather Nitta's disclosure of a separate microphone is clearly a teaching away of having a biometric voice sensor integrated into a portion of the integrated circuit. From that, it is inherent that the microphone of Nitta is what senses a user's speech. Thus, it is explicit in Nitta that there is no need for a voice sensor integrated into a portion of the integrated circuit.

Claim 54 further recites that "the biometric voice sensor [comprises] a pressure sensor including a membrane that responds to a voice pressure wave." In indicating that Claim 16 etc. were allowable, the Examiner stated that "[the] reasons why the claims are allowable are because prior art fails to [teach] the components that make up the pressure sensor on an integrated circuit" (Office Action, 3/30/2010). Applicants agree with that statement and posit that because the prior art does fail to teach the components that make up the pressure sensor on an integrated circuit it is implicit that the particular corresponding limitation recited in Claim 54, namely that the biometric voice sensor comprises a pressure sensor including a membrane that responds to a voice pressure wave, is not disclosed by the prior art.

Gainsboro does not teach anything about integrated circuit cards. It is therefore clear that Gainsboro does not teach or suggest the elements missing from Nitta.

Thus, the combination of Nitta and Gainsboro fails to include several of the elements of Claim 54.

Claim 55 depends from Claim 54, incorporates all the limitations thereof, recite further unique and non-obvious combinations and is patentable for the reasons given in support of Claim 54 and by virtue of such other non-obvious combinations.

CONCLUSION

It is submitted that all of the claims now in the application are allowable. Applicants respectfully request consideration of the application and claims and its early allowance. If the Examiner believes that the prosecution of the application would be facilitated by a telephonic interview, Applicants invite the Examiner to contact the undersigned at the number given below.

Applicants respectfully request that a timely Notice of Allowance be issued in this application.

Respectfully submitted,

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